

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GENERAL DYNAMICS LAND
SYSTEMS INC.,

Plaintiff/Counter-
Defendant,

Case No. 2:19-cv-11748
District Judge Gershwin A. Drain
Magistrate Judge Anthony P. Patti

v.

MDL MANUFACTURING
INDUSTRIES, INC.,

Defendant/Counter-
Claimant.

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**ORDER GRANTING PLAINTIFF'S MOTION TO COMPEL (ECF No. 30),
AWARDING ATTORNEY FEES PURSUANT TO FED. R. CIV. P. 37(a)(5),
AND AMENDING SCHEDULING ORDER DEADLINES**

This matter came before the Court for consideration of Plaintiff's motion to compel discovery and request for attorney fees (ECF No. 30), Defendant's response in opposition (ECF No. 35), Plaintiff's reply (ECF No. 38), and the parties' joint list of unresolved issues (ECF No. 45). Judge Drain referred this motion to me for a hearing and determination. (ECF No. 31.) As a result of the COVID-19 pandemic and Michigan Governor Whitmer's order to shelter in place, a telephonic hearing was held on April 27, 2020, at which counsel appeared by

telephone and the Court entertained oral argument regarding Plaintiff's motion and took sworn testimony regarding the requested attorney fees.

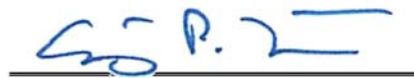
Upon consideration of the motion papers and oral argument, and for all of the reasons stated on the record by the Court, which are hereby incorporated by reference as though fully restated herein, Plaintiff's motion to compel (ECF No. 30) is **GRANTED** in accordance with Fed. R. Civ. P. 26(b)(1) and 37(a). The parties agree that Interrogatory No. 4 is no longer at issue. However, Defendant must produce documents responsive to the six categories listed on pages 3-4 of the joint list of unresolved issues (ECF No. 45, PageID.974-975) related to Plaintiff's Request to Produce No. 12 by **Friday, May 29, 2020**, and any outstanding depositions, as identified on the record and agreed by counsel, must be scheduled and completed by **Tuesday, June 30, 2020**. Accordingly, the Court will **EXTEND** the discovery cut-off date to **Tuesday, June 30, 2020** (for depositions only, with no further written discovery requests being permitted), and the dispositive motion deadline to **Wednesday, July 29, 2020**.

Further, pursuant to Fed. R. Civ. P. 37(a)(5)(A), the Court **AWARDS** attorney fees in the amount of \$3,987.50 (14.5 hours at an hourly rate of \$275.00), to be paid by Defendant itself to Plaintiff on or before **Monday, June 8, 2020**. *See* Fed. R. Civ. P. 37(a)(5)(A) ("If the motion is granted—or if the disclosure or requested discovery is provided after the motion was filed—the court must, after

giving an opportunity to be heard, require the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees."'). In so doing, the Court finds very reasonable the \$275/hour rate requested by Plaintiff's attorney Benjamin I. Shipper, which is a reduction of his regular hourly rate of \$325/hour, in light of his representations to the Court that he has practiced law since 2013 as an associate at one of the largest law firms in Michigan, the nature of this motion and the Court's own experience. The Court also finds imminently reasonable Mr. Shipper's request that his client be compensated for 14.5 hours of work related to the instant motion, especially considering his representation to the Court that he spent, in actuality, 30-35 hours.

IT IS SO ORDERED.

Dated: April 28, 2020



Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE